

1 the operation of the station. That is not a basis for
2 objection, it is just putting Mr. Carr on notice.

3 JUDGE MILLER: I agree with you.

4 MR. CARR: Yes.

5 JUDGE MILLER: Now, with those comments and
6 rulings, Taylor Exhibit 2 is received.

7 (The document referred to was
8 marked for identification as
9 Taylor Exhibit No. 2 and was
10 received in evidence.)

11 MR. CARR: Question, Your Honor. Did you
12 want a revised jurat for that one also?

13 JUDGE MILLER: Yes, I have indicated to you
14 right at the very beginning.

15 MR. CARR: Oh, that's right, you did, I am
16 sorry.

17 JUDGE MILLER: At the very beginning, I
18 indicated I wanted a revised jurat.

19 MR. CARR: Your Honor, I would like to have
20 marked for identification Robert B. Taylor Exhibit No.
21 3 entitled "Statement on Diversification". It consists
22 of one page of text and an accompanying declaration
23 and, Your Honor, that declaration is the same as in
24 Exhibits 1 and 2.

25 JUDGE MILLER: Yes, I want a satisfactory

1 jurat.

2 MR. CARR: And that will be provided, Your
3 Honor.

4 JUDGE MILLER: Which indicates firsthand
5 knowledge.

6 MR. CARR: Yes, Your Honor.

7 JUDGE MILLER: Any objections to Taylor
8 Exhibit No. 3?

9 MR. BELISLE: Not in as far as it goes, Your
10 Honor, but I would say that it does constitute a
11 comparative upgrade and that it doesn't account for Mr.
12 Taylor's ownership of a daytime AM station in Jupiter,
13 Florida. He owned that station up until early this
14 year. That was long after the time for filing
15 amendments as of right that would upgrade, or that
16 could change a comparative position in the case, and I
17 think he should be charged with ownership of a daytime
18 AM station.

19 JUDGE MILLER: Well, I think with appropriate
20 questioning, you can lay the foundation to make such a
21 finding to me, Mr. Belisle.

22 MR. BELISLE: Yes.

23 JUDGE MILLER: And I think, from the basis of
24 my ruling on interlocutories, I think you understand
25 that I too am holding him responsible for that AM

1 operation.

2 Let me state, Mr. Carr -- well, do you have
3 anything else, Mr. Goldstein?

4 MR. GOLDSTEIN: Not on Exhibit 3, Your Honor.

5 JUDGE MILLER: Okay. Let me just state one
6 area of cross-examination that I think that I would
7 probably be bringing up, Mr. Carr.

8 MR. CARR: Yes, Your Honor.

9 JUDGE MILLER: And it relates, it is the
10 relationship between Exhibit 3 and Exhibit 1. In
11 Exhibit 1, the statement is made, "I owned and operated
12 WRKE-AM-FM Cocoa Beach, Florida from August 7, 1977 to
13 October 1981." I want to know what happened. Did he
14 sell it? I mean --

15 MR. CARR: Yes, Your Honor.

16 JUDGE MILLER: I mean I want him to be able
17 to tell me what he did with that.

18 MR. CARR: He can do that, Your Honor.

19 JUDGE MILLER: All right. With those
20 comments, Exhibit No. 3 is received.

21 (The document referred to was
22 marked for identification as
23 Taylor Exhibit No. 3 and was
24 received in evidence.)

25 MR. CARR: Your Honor, I would like to have

1 marked for identification Robert B. Taylor Exhibit No.
2 4. It has the title "News, Sports, Stock Market,
3 Weather Programming". It consists of a cover page,
4 plus three pages of information, plus an attached
5 declaration. And again that declaration --

6 JUDGE MILLER: All right. Plus a substituted
7 declaration.

8 MR. CARR: Yes, Your Honor.

9 JUDGE MILLER: Everybody has copies of those,
10 including the court reporter, of the substituted
11 declaration, correct, Mr. Carr?

12 MR. CARR: Yes, Your Honor. The court
13 reporter has those in the copies that I have already
14 handed to the court reporter.

15 JUDGE MILLER: The document you just
16 described will be marked for identification as Taylor
17 Exhibit No. 4.

18 (The document referred to was
19 marked for identification as
20 Taylor Exhibit No. 4.)

21 JUDGE MILLER: Do you offer it into evidence?

22 MR. CARR: Yes, Your Honor.

23 JUDGE MILLER: Objections, Mr. Belisle?

24 MR. BELISLE: Yes, Your Honor, I have several
25 objections to this exhibit. The first objection is

1 that this testimony is a comparative upgrade and that
2 the date for firming up the comparative cases was 30
3 days after acceptance of Jupiter Broadcasting Corp.'s
4 application for tender, that was 30 days after April
5 11, 1989, and I refer everyone to Broadcast
6 Applications Report No. 14435, released April 11, 1989.

7 Now, as of the time of this hearing, the only
8 Issues Programs List for WTRU for the period between
9 September 18, 1984 through March 31, 1987, which was
10 the time Mr. Taylor, or approximately the time Mr.
11 Taylor turned off his station -- his stations, was this
12 particular document that I am handing to you, because I
13 am making, going to be making a variance objection and
14 I would like everyone to follow along.

15 JUDGE MILLER: All right.

16 MR. BELISLE: A copy to you, Your Honor. A
17 copy to Mr. Goldstein, a copy to Mr. Carr.

18 This, the fact that this was the only Issues
19 Programs List was established in Mr. Taylor's response
20 to admission request No. 165 and 166 of the first
21 request for admissions to Mr. Taylor.

22 Now, if you examine that Issues Programs
23 List, it does not identify a single program broadcast
24 to meet community needs, and this is so even though
25 rule 73.3526(A)(9) requires a quarterly list of

1 programs, quote, "that have provided the station's most
2 significant treatment of community issues during the
3 preceding three month period," end quote.

4 Mr. Taylor was required by rule 73.3526 to
5 provide the programming basis of his renewal expectancy
6 in his Issues Programs List, and instead he has
7 provided it for the first time in his hearing exhibits
8 filed three years after the end of his renewal period
9 and three years after the cutoff date for comparative
10 upgrades. And for that reason, you know, that is the
11 first basis of our objection, this is a blatant
12 comparative upgrade to claim credit for this program.

13 Would you like me to move on the next reason?

14 JUDGE MILLER: No, I will give you a ruling
15 on your objections, you see. Your objection is
16 overruled.

17 MR. BELISLE: Oh. The second --

18 JUDGE MILLER: Now, let me state, when I,
19 when this case was designated for hearing, and under
20 Commission policy, every applicant has a right to claim
21 a renewal expectancy, I called on Mr. Taylor to either
22 make, say yea or nay, he said yea. Then I expect him
23 to present what evidence is available to him, all
24 evidence that is available to him, whether there was
25 some rule in the background or not, I expect him then

1 to make that presentation to me because I think to do
2 otherwise would not be giving him the right to claim a
3 renewal expectancy.

4 The materials that you gave, you handed out,
5 Mr. Belisle, if you will look, as you probably are well
6 aware, at Exhibit 7, page 3, you will see in the upper
7 half, "Local Problems Ascertained," that material typed
8 out, that you exchanged.

9 MR. BELISLE: That is correct, Your Honor, on
10 the back heading.

11 JUDGE MILLER: We'll take that up when we get
12 to it. But I just thought, what you exchanged may not
13 be in Exhibit 4 but it is another exhibit, that's all I
14 am saying.

15 Now, proceed with your next objection.

16 MR. BELISLE: My next --

17 MR. GOLDSTEIN: May I make a comment on that,
18 though, Your Honor?

19 JUDGE MILLER: Yes.

20 MR. GOLDSTEIN: I do think it is significant
21 that Exhibit, the document that Mr. Belisle exchanged
22 be in the record at some point in time, as
23 distinguished from a list that is located in paragraph
24 7.

25 JUDGE MILLER: If he wants to make a cross-

1 examination exhibit of this, I have no problems at all.
2 But I am not -- what I am saying is that this exchange,
3 in my mind, does not create a variance with Exhibit No.
4 4, because I believe that at the time that I called on
5 Mr. Taylor to either claim or not claim a renewal
6 expectancy, that he had the right to rely on the
7 materials he is now placing in Exhibit 4.

8 Now, what good, the value of that exhibit is
9 another problem.

10 MR. GOLDSTEIN: Furthermore, Your Honor, I
11 think that, to a certain extent, that Mr. Belisle's,
12 the direction in which Mr. Belisle is going, in terms
13 of the validity of his showing, can really be subsumed
14 under another issue which Your Honor has added for the
15 second phase of the hearing, namely, public file
16 complaints.

17 JUDGE MILLER: I understand. There is going
18 to be overlap between some exhibits under renewal
19 expectancy and some exhibits on the ten issues that
20 were added.

21 MR. BELISLE: The second objection, Your
22 Honor, is that the testimony in Exhibit No. 4 is
23 irrelevant because it has not been linked to any of the
24 community issues listed in the station's Issues
25 Programs List, that all you have here is a long listing

1 of news, sports, stock market, weather programming that
2 doesn't seem to be linked in any way to ascertain
3 community issues or problems. That's the second
4 objection.

5 And the third objection was the variance
6 objection.

7 JUDGE MILLER: Well, first, I will overrule
8 your second objection.

9 MR. BELISLE: Okay. And the third objection
10 is the variance objection, in this respect, that
11 Question 5 of FCC Form 303-S asks if the applicant has
12 placed the required documentation into its public file
13 in a timely fashion and, of course, if not, it requires
14 an explanation.

15 Mr. Taylor's application indicted that he had
16 in fact placed the required documentation in his public
17 file. If I could make a copy of the application
18 available to you and counsel, it would be Question 5.

19 Now, this required documentation included an
20 Issues Programs List, it is the position of Jupiter
21 Broadcasting Corp. this Question 5 was intended to
22 incorporate the contents of a public file into a
23 renewal application. We believe this was the intent of
24 the FCC and the Court of Appeals when it required that
25 Issues Programs Lists be placed in public files and

1 relied upon, and the Commission established a procedure
2 of relying upon the public to bring programming
3 questions before it in the renewal context.

4 JUDGE MILLER: Wait a minute. Let me
5 understand what you are saying. Question 5, and that's
6 what we are talking about, right?

7 MR. BELISLE: Yes. Yes.

8 JUDGE MILLER: Mr. Belisle. Question 5 asks
9 the -- Question 5 doesn't mandate anything, Question 5
10 asks whether you did or you didn't. Doesn't it, yes or
11 no? And to the extent that he answers yes, then he can
12 be held responsible. You can say, well, you didn't do
13 something, but that has nothing to do with the
14 evidentiary value of Exhibit 4, does it?

15 MR. BELISLE: Only if you were to view the
16 materials in the public file as being incorporated by
17 reference into the application, and that is the
18 request, our request is that you view it in that
19 manner, and rule that because the public file
20 materials, the Issues Programs List that Mr. Taylor did
21 create, was incorporated into his application to give a
22 programming exhibit based upon something else, is a
23 variance from his application.

24 JUDGE MILLER: I am not prepared to make that
25 kind of a ruling.

1 MR. GOLDSTEIN: It just seems to me, Your
2 Honor, that we are mixing two things up. The fact, if
3 Mr. Taylor can demonstrate that he indeed did present
4 the programming represented in Exhibit No. 4, then we
5 might as well deal with reality, that that was
6 presented and that could be discussed in the context of
7 his renewal expectancy.

8 I think Mr. Belisle is going to the question
9 of an issue also that Your Honor has already added, and
10 that is a possible misrepresentation with respect to
11 compliance with Section 73.3526 amended.

12 JUDGE MILLER: I understand that. And to the
13 extent that he wants to make arguments under those
14 exhibits, under those issues when we get to them, fine.
15 But he wants to make an objection here, and I see no
16 nexus between the materials that he has exchanged here
17 and the exhibit that has been presented.

18 Now, let me be frank with you. I have no end
19 of problems with Exhibit 4, but that has nothing to do
20 with your objections.

21 MR. BELISLE: The last objection is that, it
22 is the position of Jupiter Broadcasting Corp. that Mr.
23 Taylor should be estopped from proffering a programming
24 exhibit unrelated to his Issues Programs List, and this
25 is because Rule 73.3526(A)(9) requires the filing of

1 quarterly lists of programs that have provided the most
2 significant treatment of community issues, and since
3 these programs are not among the programs that Mr.
4 Taylor has deemed to be most significant in treating
5 community issues, he should be estopped from claiming
6 any credit for them.

7 Now, of course, in citing that, also that Mr.
8 Taylor has not claimed credit for any program, in his
9 Issues Programs List, he hasn't identified any program
10 at all. But it is our position that failure to do that
11 should bar any claim for programming based preference
12 in the community.

13 MR. GOLDSTEIN: Your Honor, I think if this
14 is to be, Exhibit No. 4 is to be perceived under the
15 renewal expectancy issue, then the types of programming
16 could be considered under the renewal expectancy issue.
17 My difficulty is the verification and the validation,
18 which I guess would be more appropriate as a subject of
19 cross-examination of Mr. Taylor.

20 I have a significant amount of difficulty
21 with the process of selection, the fact that months are
22 missing and so on, but I think that is more appropriate
23 for cross-examination rather than admissibility.

24 JUDGE MILLER: Well, your objection is
25 overruled.

1 Well, I'll wait until I get to my turn.

2 Anything further?

3 MR. BELISLE: If I might just state, Your
4 Honor, that I have the same objections to Exhibit 5, 6,
5 and 8 of Mr. Taylor's and I don't want to burden you
6 again with the same objections, but if I might have --

7 JUDGE MILLER: No, but when we get to 5, 6
8 and 8 just say I have the same objections, and then
9 generalize them, and I'll say I have the same ruling.

10 MR. BELISLE: Okay.

11 JUDGE MILLER: And that way you will protect
12 yourself on the record on appeal, okay?

13 MR. BELISLE: That's fine.

14 JUDGE MILLER: That's the way we'll proceed.

15 Anything, Mr. Goldstein, on 4?

16 MR. GOLDSTEIN: I believe that I interjected
17 my comments on that, Your Honor. I believe that I
18 have, I think that this, the information here, could be
19 admissible under the renewal expectancy issue in terms
20 of the types of programs presented, credit can be given
21 for them. However, I have considerable difficulties
22 with the specifics, or lack of specifics and lack of
23 detail with respect to the different sub-exhibits
24 within Exhibit 4, but I would assume that that would be
25 more appropriate as the subject of cross-examination

1 rather than exclusion of the exhibit.

2 JUDGE MILLER: I have the same problem, and I
3 think the record, I think what we are going to have to
4 have from the witness, so have him prepared, is I have,
5 I think this would be an appropriate time to find out
6 why you stopped in March 1977, I mean March 1987. This
7 is the appropriate time for him to be able to tell me
8 what a local newscast is, what he means by a local
9 newscast. How it was, how these things were performed.
10 And can, is there any way possible to tell me whether
11 the duration was two minutes, or three minutes, or four
12 minutes or five minutes.

13 The caption is -- now, when you look at page
14 2, we are faced with what I would say are missing
15 months.

16 MR. CARR: Yes, your Honor.

17 JUDGE MILLER: Why no, under '86, why no
18 August, September, October? I have a note here saying
19 "see Exhibit 8" where there was August, September,
20 October entries. I want to know, when he says a local
21 sportscast, whether this was a sportscast that was put
22 together by somebody at the station, or whether it was
23 a rip and read. I want to know, you know --

24 MR. CARR: Yes, Your Honor.

25 JUDGE MILLER: I am not getting, what was it

1 that was so interesting about the weather in July and
2 August of 1986 that apparently wasn't so very
3 interesting in not only a lot of other years, but other
4 months in that same year? Why do we have a limited
5 number of business newscasts? I mean this, I have
6 problems with the weight of his exchange, let me put it
7 that way to you.

8 MR. GOLDSTEIN: Your Honor, might I suggest,
9 I have a number of questions that would be variances --
10 variations of what you have, and I think maybe in light
11 of the fact that we are going to, there may be
12 extensive examination on this, I would suggest to Mr.
13 Carr he might want to have the logs available.

14 JUDGE MILLER: Yes.

15 MR. CARR: It was my intention, Your Honor,
16 to have Mr. Taylor bring, we have two large boxes of
17 program logs and my intention was to have them, and Mr.
18 Belisle has a complete set of those program logs.

19 MR. BELISLE: That is correct.

20 MR. CARR: And I had the intention of Mr.
21 Taylor having those program logs with him, Your Honor.

22 JUDGE MILLER: Good. Because when you cross-
23 examine, if there is any debate as to whether this is
24 correct or it is incorrect, I mean let's have the
25 material in the room that will verify it.

1 MR. CARR: Yes, Your Honor. I intended to do
2 that.

3 JUDGE MILLER: Okay. With that, with those
4 comments and those rulings, Exhibit No. 4, Taylor
5 Exhibit No. 4 is received.

6 (The document referred to,
7 having been previously marked
8 for identification as Taylor
9 Exhibit No. 4, was received in
10 evidence.)

11 MR. CARR: Your Honor, I have marked for
12 identification Robert B. Taylor --

13 MR. GOLDSTEIN: Excuse me one second.

14 Your Honor, may I suggest for record
15 purposes, it may be helpful to say with the revised
16 jurat.

17 JUDGE MILLER: The revised jurat has been
18 supplied.

19 MR. CARR: Has been supplied, yes, Your
20 Honor.

21 JUDGE MILLER: And it goes along with the
22 proffer.

23 All right. Proceed, Mr. Carr.

24 MR. CARR: I would like to have marked for
25 identification Robert B. Taylor Exhibit No. 5, Your

1 Honor. It is entitled "List of Organizations for Whom
2 Public Service Announcements Were Aired from July 1985
3 through March 1987". There is a first page describing
4 the pages that follow, and then there are 20 pages
5 listing public service announcements on a month by
6 month basis, and then there is an attached declaration,
7 and I have provided a revised declaration for Exhibit
8 No. 5.

9 JUDGE MILLER: All right. The document that
10 you just described will be marked for identification as
11 Taylor Exhibit No. 5.

12 (The document referred to was
13 marked for identification as
14 Taylor Exhibit No. 5.)

15 JUDGE MILLER: You have the same objections?

16 MR. BELISLE: The same ones. It is a
17 comparative upgrade.

18 JUDGE MILLER: Right.

19 MR. BELISLE: It is irrelevant.

20 JUDGE MILLER: Right.

21 MR. BELISLE: It is a variance from his
22 renewal application.

23 JUDGE MILLER: Right.

24 MR. BELISLE: And he should be estopped from
25 proffering a programming exhibit unrelated to his

1 Issues Programs List. Those.

2 JUDGE MILLER: Those four. And you are
3 carrying those forward. My rulings are the same, I
4 overrule them.

5 Do you have anything in addition that you
6 want to, comments, criticisms, witticisms, or anything
7 on Exhibit 5?

8 MR. BELISLE: Nothing in addition, Your
9 Honor.

10 JUDGE MILLER: All right. Mr. Goldstein?

11 MR. GOLDSTEIN: I have a number of comments
12 and questions that I will have, and I may as well tell
13 Mr. Carr the questions. The process of selecting
14 PSA's, the solicitation of PSA's, is there a written
15 policy? A question of expansion of PSA's during
16 certain time periods. And I believe the jurat answers
17 the question of who prepared the exhibit, but the
18 process by which it was prepared I think is important
19 too, we will have to elaborate on.

20 JUDGE MILLER: I would, the bench may well
21 have some questions along those same lines.

22 MR. CARR: Yes, Your Honor.

23 JUDGE MILLER: And the bench has one
24 additional question that Mr. Goldstein alluded to but
25 in a general fashion. Mine will be more specific. Why

1 did you start in July 1985? Other exhibits started in
2 1984. Why is it that there were no PSA's -- I have to
3 assume there were no PSA's broadcast before July 1985.
4 Now, I be wrong. But the point is, this is what he is
5 holding out to me.

6 MR. CARR: Yes, Your Honor. If I may state,
7 I believe the answer to your question is that July 1985
8 through March 1987 represents the logs that are
9 available for the station, program logs that are
10 available.

11 MR. GOLDSTEIN: Your Honor, if that is the
12 case, I would like to know what happened, where we got
13 the information in Exhibit No. 4 for the period prior
14 to that.

15 JUDGE MILLER: That's right.

16 MR. CARR: Well, maybe I -- let me look
17 again, Your Honor.

18 JUDGE MILLER: How can --

19 MR. CARR: I'm sorry.

20 JUDGE MILLER: Do you see? If you follow it,
21 Mr. Carr.

22 MR. CARR: Yes, I see what the question is,
23 Your Honor.

24 JUDGE MILLER: November. You know, he is
25 able to tell us, even though I admit that this isn't

1 definitive, as far as me writing an ID on the problem,
2 but he is able to tell us that there were 118 local
3 newscasts in November of 1984 of a duration of two to
4 five minutes each, for what it's worth.

5 MR. CARR: Yes, Your Honor. Yeah, I standard
6 corrected, that did come from the logs, Your Honor.
7 But I have your question.

8 JUDGE MILLER: But -- yeah, you can see what
9 my question is, right?

10 MR. CARR: Yes. Yes, Your Honor.

11 JUDGE MILLER: Now, I am not going to allow
12 him to upgrade that exhibit. If he comes in and says,
13 oh, gee, I would like to now present July of '84 -- he
14 is going to live with this.

15 MR. CARR: Yes, Your Honor, that is
16 understood.

17 JUDGE MILLER: Okay. Anything else, Mr.
18 Goldstein?

19 MR. GOLDSTEIN: Not at the moment, Your
20 Honor. Not objections, Your Honor.

21 JUDGE MILLER: No objections, all right.
22 With those rulings and comments, Taylor Exhibit No. 5
23 is received.

24

25

1 (The document referred to,
2 having been previously marked
3 for identification as Taylor
4 Exhibit No. 5, was received in
5 evidence.)

6 MR. CARR: Your Honor, I would like to have
7 marked for identification Robert B. Taylor Exhibit No.
8 6. It is public witness affidavits. It consists of a
9 cover page and four attached declarations. I have also
10 now added a declaration of Robert B. Taylor to that, so
11 the exhibit is now the four letters plus a declaration
12 of Robert B. Taylor.

13 JUDGE MILLER: All right. I think this --
14 let me make a statement here at this point, Mr. Belisle
15 and Mr. Goldstein. I have brought this point up
16 because I wanted a jurat that would comply with what I
17 believe to be was the agreement we reached at the pre-
18 hearing conference. I have read this declaration and I
19 believe it does meet the terms of what we agreed upon
20 and thereby gives you a proper vehicle for questioning,
21 without regard to your objections, if they are received
22 in evidence, for the proper questioning and testing of
23 these exhibits -- this exhibit.

24 With that, I'll ask you any, do you offer --
25 well, first of all, a five page document, including the

1 declaration, will be marked for identification as
2 Robert Taylor Exhibit No. 6.

3 (The document referred to was
4 marked for identification as
5 Taylor Exhibit No. 6.)

6 JUDGE MILLER: And you offer that in
7 evidence?

8 MR. CARR: Yes, I do, Your Honor.

9 JUDGE MILLER: Mr. Belisle.

10 MR. BELISLE: Yes, Your Honor. Because these
11 public witness affidavits refer to programs broadcast
12 over station -- well, what is now station WTRU, I have
13 the same four objections that I had to Exhibit No. 4,
14 that it is a comparative upgrade, that it is irrelevant
15 because it hasn't been linked to community issues, that
16 it is at a variance from the renewal application and
17 that Mr. Taylor should be estopped from proffering a
18 program exhibit unrelated to his Issues Programs List.
19 And I, of course, know your rulings, but --

20 JUDGE MILLER: I consistently, to be
21 consistent with my ruling, I overrule your objections
22 on those.

23 Anything further on Exhibit 6, Mr. Belisle?

24 MR. BELISLE: No, Your Honor.

25 MR. GOLDSTEIN: I have.

1 JUDGE MILLER: Mr. Goldstein.

2 MR. GOLDSTEIN: With respect to the affidavit
3 of Alice Klimass, that there is a total absence of
4 specificity in terms of the nature of the programming
5 that she attributes to the licensee in question here.

6 JUDGE MILLER: I agree with you, but let me
7 point out to you that, while the Bureau doesn't
8 participate a lot on comparative cases, it is a problem
9 I always run into in my comparative cases, that I have
10 to just look down and tell the lawyer, hey, I can't
11 write a finding, I can't write a finding because I
12 don't, it's too vague.

13 And let me say this to you, Mr. Goldstein, I
14 am going to have trouble writing a finding on 4 for the
15 same reason. I am not going to put vague stuff in my
16 ID and to the extent that they don't have dates, they
17 don't have, you know, specifics, then they have to
18 suffer, and there is nothing I can do about that.

19 MR. GOLDSTEIN: Well, I think, Your Honor, I
20 would have basically the same types of comments with
21 respect to exhibits, the three additional affidavits
22 that are there. I assume that we can discuss them
23 later on.

24 JUDGE MILLER: And you also, and I think
25 sometimes in comparative cases, counsel have become

1 disturbed with me when I say to them I believe, I have
2 to accept, on the basis of what you have given me, that
3 this is your best foot forward, this is your best shot,
4 and I am going to so judge it.

5 And sometimes counsel don't, they wish they
6 had it back, they would like to do something more, wish
7 they had it over again. But that is the way I have to
8 approach these things, I am going to approach this as
9 if there are four affidavits of present and former
10 community leaders and give them credit for what they
11 said.

12 MR. GOLDSTEIN: Your Honor, I would also,
13 again, it goes to a question I suppose would be
14 appropriate for cross-examination on the declaration of
15 Mr. Taylor. The letters were prepared by me, I mean
16 the sources of information and stuff, and the process
17 by which he assembled the data which he put into the
18 letters is just not clear, it is not even alluded to in
19 terms of the --

20 JUDGE MILLER: Well, "The letters were
21 prepared by me and were personally delivered." Now,
22 you can ask him for it, hey, where did you get this?

23 MR. GOLDSTEIN: I am just, like I said,
24 putting Mr. Carr on notice as some potential problems
25 that I see in this.

1 JUDGE MILLER: Yeah. And I have the same
2 type of questions.

3 MR. GOLDSTEIN: And also, although Your
4 Honor, initially the Bureau will probably just request
5 Mr. Taylor with respect to renewal expectancy, it may
6 be that at some point in time, and I don't know whether
7 it is appropriate to notice her, I guess, Jan Davisson
8 now, maybe that, depending upon the nature of Mr.
9 Taylor's responses to examination, then Ms. Davisson
10 would have to be produced.

11 JUDGE MILLER: I understand and I'll cross
12 that bridge when I come to it. It dawned on me when I
13 read it, as well as, for example, Pat McGowan of the
14 Jupiter Hospital.

15 But my first inclination is can we get the
16 firsthand knowledge from Taylor? If we can get the
17 firsthand knowledge from Taylor, then I see no problem
18 with, you know, you having, if you want to request him,
19 you are probably going to get turned down. But, on the
20 other hand, if we can't get the firsthand knowledge
21 from Taylor, and you believe that it is essential to
22 the outcome of this case, I am certainly going to
23 entertain your motion that that person be made
24 available.

25 MR. GOLDSTEIN: Thank you. I would like to